

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

MELISSA CUTLIP,

Plaintiff,

v.

Civil Action No. 2:10-1314

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is defendant United States of America's ("United States") motion to dismiss plaintiff's claim for prejudgment interest, filed January 12, 2011. Plaintiff has not responded to the motion.

Plaintiff instituted this action on November 18, 2010. Her complaint asserts a negligence claim against the United States pursuant to the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2671-2680. As part of her prayer for relief, she demands compensatory damages "together with prejudgment and post-judgment interest and costs." (Compl. at 6).

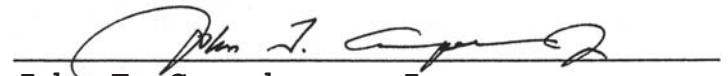
Although the FTCA removes the sovereign immunity of the United States from suits in tort and, with certain exceptions, renders the United States liable in tort as a private individual would be under like circumstances, the statute contains a number

of limitations. One such limitation is that a plaintiff may not recover prejudgment interest in an FTCA action. 28 U.S.C. § 2674; see also Wilkinson v. United States, 564 F.3d 927, 933 (8th Cir. 2009). Accordingly, plaintiff's request for prejudgment interest must be dismissed.

Based upon the foregoing analysis, it is ORDERED that the United States' motion to dismiss plaintiff's claim for prejudgment interest be, and it hereby is, granted.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and any unrepresented parties.

DATED: March 1, 2011

  
John T. Copenhaver, Jr.  
United States District Judge